

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
SCOTT PAPER COMPANY,

Appellant,

v.

PUGET SOUND AIR POLLUTION
CONTROL AGENCY,

Respondent.

PCHB No. 81-9

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

This matter, the appeal from the assessment of a \$250 civil penalty for the alleged violation of WAC 173-410-040(7), came before the Pollution Control Hearings Board, Nat Washington, Chairman, Gayle Rothrock and David Akana (presiding) at a formal hearing on September 8, 1981, in Lacey.

Appellant was represented by its attorney, Julian C. Dewell; respondent was represented by its attorney, Keith D. McGoffin. Court reporter Kim Otis recorded the proceedings.

Having heard the testimony, having examined the exhibits, and

1 having considered the contentions of the parties, the Board makes the:

2 FINDINGS OF FACT

3 I

4 Appellant Scott Paper Company owns and operates a sulfite pulping
5 mill in Everett. The facility includes a system for recovery of
6 chemicals and certain air pollution control equipment. Emissions from
7 a recovery boiler are passed through a cooling tower, an absorption
8 tower and demisters (wet scrubbers) before being discharged through a
9 stack (No. 10 stack) into the ambient air.

10 II

11 On December 9, 1980, at about 2:40 p.m., while on routine patrol,
12 respondent's inspector saw a gray plume discharging from the No. 10
13 stack on appellant's property. After properly positioning himself 0.4
14 miles away, the inspector recorded a plume opacity of 50 to 60 percent
15 against the white overcast skies for thirty consecutive minutes. The
16 plume was attached to the stack and was visible for 70 to 80 feet
17 downwind at which point it completely dissipated. The inspector then
18 reported his observation to employees at the plant and issued a notice
19 of violation for the alleged violation of WAC 173-405-040(10). The
20 notice was amended the following day to recite the correct rule,
21 WAC 173-410-040(7). From this notice followed a \$250 civil penalty
22 (No. 4964) and this appeal.

23 III

24 The inspector recorded windspeed at 9 knots from the southeast
25 (143°) during the event. He did not record the relative humidity or
26

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1 temperature. He recorded the greatest opacity of the plume at thirty
2 feet from the point of discharge.

3 IV

4 The opacity is determined according to procedures outlined in
5 Method 9B which provides in part:

6 The qualified observer shall stand at a distance
7 sufficient to provide a clear view of the emissions
8 with the sun oriented in the 140° sector to his back.
9 . . .

10 The observer shall record the name of the plant,
11 emission location type of facility, observer's name and
12 affiliation, and the date on a field data sheet. The
13 time, estimated distance to the emission location,
14 approximate wind direction, estimated wind speed,
15 description of the sky condition (presence and color of
16 clouds), and plume background are recorded on a field
17 data sheet at the time opacity readings are initiated
18 and completed.

19 The observer should make note of the ambient relative
20 humidity, ambient temperature, the point in the plume
21 that the observations were made, the estimated depth of
22 the plume at the point of observation, and the color
23 and condition of the plume. It is also helpful if
24 pictures of the plume are taken.

25 Opacity observations shall be made at the point of
26 greatest opacity in that portion of the plume where
27 condensed water vapor is not present. . . .

28 When condensed water vapor is present within the plume
29 as it emerges from the emission outlet, opacity
30 observations shall be made beyond the point in the
31 plume at which condensed water vapor is no longer
32 visible.

33 When water vapor in the plume condenses and becomes
34 visible at a distinct distance from the emission
35 outlet, the opacity of emissions should be evaluated at
36 the emission outlet prior to the condensation of water
37 vapor and the formation of the steam plume. (Emphasis
38 added.)

1 V

2 The inspector characterized the plume as a dry plume, i.e., one in
3 which condensed water vapor is not present. Using Method 9B, the
4 opacity observation was then taken at the point of greatest opacity.

5 VI

6 At the time the plume was observed by the inspector, the emission
7 control system was operating normally. The gas stream was saturated
8 or nearly saturated with water. Monitoring instruments at the
9 facility did not disclose an opacity violation to appellant's
10 employees.

11 VII

12 The inspector substantially followed the requirements of Method 9B
13 for dry plumes. He did not follow Method 9B for wet plumes because
14 his observations were not taken beyond the point at which condensed
15 water vapor is no longer visible.

16 VIII

17 Any Conclusion of Law which should be deemed a Finding of Fact is
18 hereby adopted as such.

19 From these Findings of Fact the Board comes to these ———

20 CONCLUSIONS OF LAW

21 I

22 WAC 173-410-040 provides in part:

23 (7) Opacity. No person shall cause or allow the
24 emission of a plume from a recovery system or acid
25 plant or other source which has an average opacity
26 greater than thirty-five percent at or within a
reasonable distance of the emission point, for more
than six consecutive minutes in any sixty minute
period, except as described in WAC 173-410-040(8) and

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1 173-410-040(9). The opacity determination shall be
2 according to procedures contained in "Source Test
3 Manual - Procedures for Compliance Testing", on file
with the department. There shall be no more than one
violation for any sixty minute period.

4 (8) The provisions of WAC 173-410-040(7) shall not
5 apply when the presence of condensed water droplets is
6 the only reason for the opacity of the plume to exceed
thirty-five percent.

7 II

8 Respondent did not show that the opacity determination was taken
9 as required by WAC 173-410-040(7). Accordingly, the violation was not
10 proven and the \$250 civil penalty should be vacated.

11 III

12 Any Finding of Fact which should be deemed a Conclusion of Law is
13 hereby adopted as such.

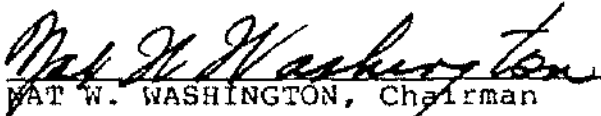
14 From these Conclusions, the Board enters this
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ORDER

The \$250 civil penalty No. 4964 is vacated.

DATED this 28th day of September, 1981.

POLLUTION CONTROL HEARINGS BOARD


NAT W. WASHINGTON, Chairman


GAYLE ROTHROCK, Member


DAVID AKANA, Member

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